

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK

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IRA TENENZAPF,

Plaintiffs,

Case No. 16-cv-03361

**ANSWER**

-against-

DANIELS NORELLI SCULLY & CECERE, P.C.  
JAMES P. SCULLY  
COLORADO CAPITAL INVESTMENTS, INC.  
COLORADO CAPITAL ASSET MANAGEMENT  
CORPORATION,

Defendants.  
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Defendants DANIELS NORELLI SCULLY & CECERE, P.C. and JAMES P. SCULLY collectively referred to herein as “Defendants”), by their attorneys, Kaufman Dolowich & Voluck, LLP, set forth the following as and for their Verified Answer to the Plaintiffs’ Original Complaint:

**A. JURISDICTION AND VENUE**

1. Defendants deny the allegations set forth in Paragraph “1” of the Complaint.
2. Defendants deny the allegations set forth in Paragraph “2” of the Complaint.

**B. PARTIES**

3. Defendants deny having knowledge or information sufficient to form a belief as to the allegations set forth in Paragraph “3” of the Complaint.
4. Defendants deny the allegations set forth in Paragraph “4” of the Complaint, and refer all questions of law to this Honorable Court for its determination.
5. Defendants deny the allegations set forth in Paragraph “5” of the Complaint.

6. Defendants deny having knowledge or information sufficient to form a belief as to the allegations set forth in Paragraph “6” of the Complaint.

7. Defendants deny having knowledge or information sufficient to form a belief as to the allegations set forth in Paragraph “7” of the Complaint.

8. Defendants deny having knowledge or information sufficient to form a belief as to the allegations set forth in Paragraph “8” of the Complaint.

### **C. STATEMENT OF FACTS**

9. Defendants deny having knowledge or information sufficient to form a belief as to the allegations set forth in Paragraph “9” of the Complaint.

10. Defendants deny having knowledge or information sufficient to form a belief as to the allegations set forth in Paragraph “10” of the Complaint.

11. Defendants deny having knowledge or information sufficient to form a belief as to the allegations set forth in Paragraph “11” of the Complaint.

12. Defendants deny having knowledge or information sufficient to form a belief as to the allegations set forth in Paragraph “12” of the Complaint.

13. Defendants deny the allegations set forth in Paragraph “13” of the Complaint.

14. Defendants deny having knowledge or information sufficient to form a belief as to the allegations set forth in Paragraph “14” of the Complaint.

15. Defendants deny having knowledge or information sufficient to form a belief as to the allegations set forth in Paragraph “15” of the Complaint.

16. Defendants deny the allegations set forth in Paragraph “16” of the Complaint.

17. Defendants neither admit nor deny the allegations contained in Paragraph “17” of the Complaint and respectfully refer the Court to the document referenced therein for its contents.

18. Defendants deny having knowledge or information sufficient to form a belief as to the allegations set forth in Paragraph “18” of the Complaint.

19. Defendants deny the allegations set forth in Paragraph “19” of the Complaint.

20. Defendants deny the allegations set forth in Paragraph “20” of the Complaint.

21. Defendants deny the allegations set forth in Paragraph “21” of the Complaint.

22. Defendants deny the allegations set forth in Paragraph “22” of the Complaint.

23. Defendants deny having knowledge or information sufficient to form a belief as to the allegations set forth in Paragraph “23” of the Complaint.

24. Defendants deny the allegations set forth in Paragraph “24” of the Complaint.

25. Defendants deny the allegations set forth in Paragraph “25” of the Complaint.

26. Defendants deny the allegations set forth in Paragraph “26” of the Complaint.

27. Defendants deny having knowledge or information sufficient to form a belief as to the allegations set forth in Paragraph “27” of the Complaint.

28. Defendants deny the allegations set forth in Paragraph “28” of the Complaint.

29. Defendants deny the allegations set forth in Paragraph “29” of the Complaint.

30. Defendants deny the allegations set forth in Paragraph “30” of the Complaint.

31. Defendants deny having knowledge or information sufficient to form a belief as to the allegations set forth in Paragraph “31” of the Complaint.

32. Defendants deny the allegations set forth in Paragraph “32” of the Complaint.

33. Defendants deny having knowledge or information sufficient to form a belief as to the allegations set forth in Paragraph “33” of the Complaint.

34. Defendants deny the allegations set forth in Paragraph “34” of the Complaint.

35. Defendants deny the allegations set forth in Paragraph “35” of the Complaint.

36. Defendants deny the allegations set forth in Paragraph “36” of the Complaint.

37. Defendants deny the allegations set forth in Paragraph “37” of the Complaint.

38. Defendants neither admit nor deny the allegations contained in Paragraph “38” of the Complaint and respectfully refer the Court to the document referenced therein for its contents.

39. Defendants deny the allegations set forth in Paragraph “39” of the Complaint.

40. Defendants deny the allegations set forth in Paragraph “40” of the Complaint.

41. Defendants deny the allegations set forth in Paragraph “41” of the Complaint.

42. Defendants deny the allegations set forth in Paragraph “42” of the Complaint.

43. Defendants deny the allegations set forth in Paragraph “43” of the Complaint.

44. Defendants deny the allegations set forth in Paragraph “44” of the Complaint.

45. Defendants deny the allegations set forth in Paragraph “45” of the Complaint.

46. Defendants deny the allegations set forth in Paragraph “46” of the Complaint.

47. Defendants deny having knowledge or information sufficient to form a belief as to the allegations set forth in Paragraph “47” of the Complaint.

48. Defendants deny the allegations set forth in Paragraph “48” of the Complaint.

49. Defendants deny having knowledge or information sufficient to form a belief as to the allegations set forth in Paragraph “49” of the Complaint.

50. Defendants neither admit nor deny the allegations contained in Paragraph “50” of the Complaint and respectfully refer the Court to the document referenced therein for its contents.

51. Defendants deny having knowledge or information sufficient to form a belief as to the allegations set forth in Paragraph “51” of the Complaint.

52. Defendants deny the allegations set forth in Paragraph “52” of the Complaint.

53. Defendants deny the allegations set forth in Paragraph “53” of the Complaint.

54. Defendants neither admit nor deny the allegations contained in Paragraph “54” of the Complaint and respectfully refer the Court to the document referenced therein for its contents.

55. Defendants deny the allegations set forth in Paragraph “55” of the Complaint.

56. Defendants deny having knowledge or information sufficient to form a belief as to the allegations set forth in Paragraph “56” of the Complaint.

57. Defendants neither admit nor deny the allegations contained in Paragraph “57” of the Complaint and respectfully refer the Court to the document referenced therein for its contents.

58. Defendants neither admit nor deny the allegations contained in Paragraph “58” of the Complaint and respectfully refer the Court to the document referenced therein for its contents.

59. Defendants deny the allegations set forth in Paragraph “59” of the Complaint.

60. Defendants deny the allegations set forth in Paragraph “60” of the Complaint.

61. Defendants deny the allegations set forth in Paragraph “61” of the Complaint.

62. Defendants deny having knowledge or information sufficient to form a belief as to the allegations set forth in Paragraph “62” of the Complaint.

63. Defendants deny having knowledge or information sufficient to form a belief as to the allegations set forth in Paragraph “63” of the Complaint.

64. Defendants deny the allegations set forth in Paragraph “64” of the Complaint.

65. Defendants deny having knowledge or information sufficient to form a belief as to the allegations set forth in Paragraph “65” of the Complaint.

66. Defendants deny having knowledge or information sufficient to form a belief as to the allegations set forth in Paragraph “66” of the Complaint.

67. Defendants deny having knowledge or information sufficient to form a belief as to the allegations set forth in Paragraph “67” of the Complaint.

68. Defendants deny having knowledge or information sufficient to form a belief as to the allegations set forth in Paragraph “68” of the Complaint.

69. Defendants neither admit nor deny the allegations contained in Paragraph “69” of the Complaint and respectfully refer the Court to the document referenced therein for its contents.

70. Defendants deny the allegations set forth in Paragraph “70” of the Complaint.

71. Defendants deny having knowledge or information sufficient to form a belief as to the allegations set forth in Paragraph “71” of the Complaint.

72. Defendants deny having knowledge or information sufficient to form a belief as to the allegations set forth in Paragraph “72” of the Complaint.

73. Defendants deny having knowledge or information sufficient to form a belief as to the allegations set forth in Paragraph “73” of the Complaint.

74. Defendants deny having knowledge or information sufficient to form a belief as to the allegations set forth in Paragraph “74” of the Complaint.

75. Defendants deny having knowledge or information sufficient to form a belief as to the allegations set forth in Paragraph “75” of the Complaint.

**D. COUNT #1 VIOLATIONS OF THE FAIR DEBT  
COLLECTIONS PRACTICE ACT**

76. Defendants repeat, reiterate and reallege each and every response contained in paragraphs 1 through “75” above, as if fully set forth at length herein.

77. Defendants neither admit nor deny the allegations set forth in Paragraph “77” of the Complaint and refer all questions of law to this Honorable Court for its determination.

78. Defendants neither admit nor deny the allegations set forth in Paragraph “78” of the Complaint and refer all questions of law to this Honorable Court for its determination.

79. Defendants neither admit nor deny the allegations set forth in Paragraph “79” of the Complaint and refer all questions of law to this Honorable Court for its determination.

80. Defendants neither admit nor deny the allegations set forth in Paragraph “80” of the Complaint and refer all questions of law to this Honorable Court for its determination.

81. Defendants neither admit nor deny the allegations set forth in Paragraph “81” of the Complaint and refer all questions of law to this Honorable Court for its determination.

82. Defendants deny having knowledge or information sufficient to form a belief as to the allegations set forth in Paragraph “82” of the Complaint.

83. Defendants deny the allegations set forth in Paragraph “83” of the Complaint.

84. Defendants deny the allegations set forth in Paragraph “84” of the Complaint.

85. Defendants neither admit nor deny the allegations the allegations set forth in Paragraph “85” of the Complaint and refer all questions of law to this Honorable Court for its determination.

86. Defendants neither admit nor deny the allegations set forth in Paragraph “86” of the Complaint.

87. Defendants deny having knowledge or information sufficient to form a belief as to the allegations set forth in Paragraph “87” of the Complaint.

88. Defendants deny having knowledge or information sufficient to form a belief as to the allegations set forth in Paragraph “88” of the Complaint.

89. Defendants deny having knowledge or information sufficient to form a belief as to the allegations set forth in Paragraph “89” of the Complaint.

90. Defendants deny having knowledge or information sufficient to form a belief as to the allegations set forth in Paragraph “90” of the Complaint.

91. Defendants deny the allegations set forth in Paragraph “91” of the Complaint.

92. Defendants deny the allegations set forth in Paragraph “92” of the Complaint.

**E. NEW YORK GENERAL BUSINESS LAW SECTION  
349 ET. SEQ.**

93. Defendants repeat, reiterate and reallege each and every response contained in paragraphs 1 through 92 above, as if fully set forth at length herein.

94. Defendants neither admit nor deny the allegations set forth in Paragraph “94” of the Complaint and refer all questions of law to this Honorable Court for its determination.

95. Defendants neither admit nor deny the allegations set forth in Paragraph “95” of the Complaint and refer all questions of law to this Honorable Court for its determination.

96. Defendants deny the allegations set forth in Paragraph “96” of the Complaint.



97. Defendants deny the allegations set forth in Paragraph “97” of the Complaint.

98. Defendants deny the allegations set forth in Paragraph “98” of the Complaint.

99. Defendants deny the allegations set forth in Paragraph “99” of the Complaint.

**F. CONVERSION**

100. Defendants repeat, reiterate and reallege each and every response contained in paragraphs 1 through 99 above, as if fully set forth at length herein.

101. Defendants neither admit nor deny the allegations set forth in Paragraph “101” of the Complaint and refer all questions of law to this Honorable Court for its determination.

102. Defendants neither admit nor deny the allegations set forth in Paragraph “102” of the Complaint and refer all questions of law to this Honorable Court for its determination.

103. Defendants deny the allegations set forth in Paragraph “103” of the Complaint.

104. Defendants deny the allegations set forth in Paragraph “104” of the Complaint.

105. Defendants deny the allegations set forth in Paragraph “105” of the Complaint.

**AS AND FOR A FIRST AFFIRMATIVE DEFENSE**

106. The Complaint fails to state a claim upon which relief can be granted.

**AS AND FOR A SECOND AFFIRMATIVE DEFENSE**

107. Plaintiff has suffered no actual damages.

**AS FOR A THIRD AFFIRMATIVE DEFENSE**

108. The claims in the Complaint are barred, in whole or in part, by the applicable statute(s) of limitations

**AS FOR A FOURTH AFFIRMATIVE DEFENSE**

109. Any alleged false statements made by Defendants (such falsity being expressly denied) were, nonetheless, not material and, as such, not actionable.

**AS AND FOR A FIFTH AFFIRMATIVE DEFENSE**

110. Plaintiff lacks standing to maintain this action.

**AS AND FOR A SIXTH AFFIRMATIVE DEFENSE**

111. Plaintiff's claims are barred, in whole or in part, by the doctrine of waiver.

**AS AND FOR A SEVENTH AFFIRMATIVE DEFENSE**

112. Plaintiff's claims are barred, in whole or in part, by the doctrine of estoppel.

**WHEREFORE**, it is respectfully requested that the Complaint be dismissed in its entirety, with prejudice, and that Defendants be awarded their reasonable attorney's fees and such other and further relief as the Court deems just and proper.

Dated: Woodbury, New York  
September 9, 2016

KAUFMAN DOLOWICH & VOLUCK, LLP  
*Attorneys for Defendants*  
DANIELS NORELLI SCULLY & CECERE, P.C.  
and JAMES P. SCULLY

By: 

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